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Patent
Attorney's Docket No. 032781-011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#9/Elati

In re Patent Application of)
Don WILSON, Jr., et al.) Group Art Unit: 3731
Application No.: 09/905,679) Examiner: Paul A. Roberts
Filed: July 13, 2001) Confirmation No.: 4812
For: Endoscopic Clip Applier and Method)

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

In response to the Examiner's Action mailed August 27, 2002, the following remarks are respectfully submitted.

The Office Action indicates that the claims in this application are directed to two different species of the invention. The Action identifies the two species as follows:

- Species A: A clip applier where the actuation assembly moves the clip channel relative to a fixed outer shaft. (claim 8)
- Species B: A clip applier where the actuation assembly moves the outer shaft relative to a fixed clip channel. (claim 9)

Claims 1-7 and 10-24 were indicated as being generic. Based on the observation that the two species are patentably distinct from one another, an election of species requirement has been imposed requiring an election of one of the two species.

In response to the election of species requirement, Applicant hereby elects, with traverse, Species B: A clip applier where the actuation assembly moves the outer shaft relative to a fixed clip channel. Claims 1-7 and 9-24 are readable on the elected species, of which claims 1-7 and 10-24 are generic.

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Serial No. 09/905,679

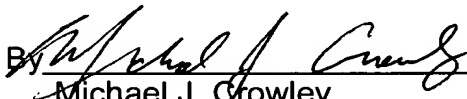
The election of species requirement is traversed because it is believed that all of the claims of this application can be examined at the same time without serious burden. In one respect, it is believed that the search associated with the non-elected species would be substantially coextensive with that required for the elected species. In addition, examining all of the claims of this application at the same time would only involve consideration of one claim in addition to those readable on the elected species. It is thus believed that no serious burden would result if all of the claims of this application are examined at the same time.

In view of the foregoing, withdrawal of the election of species requirement and examination of all of the claims of this application, including Claims 1-7 and 9-24 directed to the elected species, are respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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Dated: SEPTEMBER 27, 2002